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April 19, 1999

VIA ELECTRONIC MAIL

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, SW  
TW-A325  
Washington, DC 20554

Re: In the Matter of Telephone Number Portability Filings  
Of Ameritech Operating Companies, GTE System  
Telephone Companies, GTE Telephone Operating  
Companies, Pacific Bell and Southwestern Bell  
Telephone, CC Dkt. No. 99-35

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Dear Secretary Salas:

Pursuant to the Order Designating Issues for Investigation, released March 25, 1999 in CC Dkt. No. 99-35 in the above-referenced proceeding, attached please find the redacted version of the Ad Hoc Telecommunications Users Committee's Opposition to Direct Cases. The attached document has been redacted to eliminate reproduction of information provided by the Bell Companies pursuant to protective orders.

If you have any questions or concerns please do not hesitate to contact me at (202) 857-2550.

Respectfully submitted,

Suzanne Takata  
Legal Assistant

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Telephone Number Portability	)	CC Docket No. 99-35
Filings of	)	
	)	
Ameritech Operating Companies	)	Transmittal Nos. 1186, 1187
	)	
GTE System Telephone Companies	)	Transmittal No. 271
	)	
GTE Telephone Operating Companies	)	Transmittal No. 1190
	)	
Pacific Bell	)	Transmittal No. 2029
	)	
Southwestern Bell Telephone Company	)	Transmittal No. 2745
	)	

**AD HOC TELECOMMUNICATIONS USERS COMMITTEE'S  
OPPOSITION TO DIRECT CASES**

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Dated: April 19, 1999

## **SUMMARY**

The Commission and the Common Carrier Bureau have made it clear that the federal local number portability charges cannot be used by incumbent local exchange carriers ("ILECs") to recover all costs of implementing local number portability ("LNP"). Under the applicable two-pronged test, only costs that would not have been incurred but for the implementation of number portability and that were incurred for the provision of number portability service may be recovered via the local number portability charges. These clear and explicit instructions about local number portability costs notwithstanding, the ILECs have used their LNP tariff filings to engage in impermissible over-reaching in their cost recovery and rate levels.

The ineligible costs included by the ILECs in their local number portability tariffs include: OSS costs that do not meet the two-pronged test; a variety of ineligible OSS costs related to maintenance, provisioning, billing, and other activities unrelated to LNP; costs of systems ancillary to the provision of number portability services; and switching and signaling costs developed through the use of cost models that incorporate impermissible embedded costs. Nor have the ILECs met their burden of establishing that the use of cost models is lawful. Neither Pacific Bell nor SWBT present adequate justifications for using their models. Their actual cost estimates, provided pursuant to the Bureau's orders, cannot be verified while Ameritech does not even provide its actual costs as ordered.

The ILECs omit a variety of other data which they were required to submit including; in the case of Pacific Bell and SWBT, the data that they used to calculate overhead cost factors; an explanation of why query service costs and charges should apply to queries for an NXX where a number has not yet been ported; and a demonstration that there has not been, and will not be, double recovery of local number portability costs as a result of the ILECs' separations treatment of LNP costs.

The Bureau must ensure that the ILECs comply with the Commission's requirements for LNP rate development. Accordingly, the Bureau must disallow unjustified costs, reduce the rates in the tariffs as necessary, and order refunds where they would be warranted.

## TABLE OF CONTENTS

	<u>Page</u>
<b>SUMMARY .....</b>	<b>i</b>
<b>INTRODUCTION .....</b>	<b>1</b>
<b>I. THE STATUTORY FRAMEWORK .....</b>	<b>1</b>
A. The Commission and Bureau Orders have Established Clear Limits on the Costs that May be Recovered in Local Number Portability Charges .....	4
1. Costs Must Meet Two Criteria to be Eligible for Recovery via the Local Number Portability Charges .....	4
<b>II. THE ILECs INCLUDE COSTS THAT ARE NOT ELIGIBLE FOR RECOVERY VIA THE LOCAL NUMBER PORTABILITY TARIFF .....</b>	<b>6</b>
<b>III. CLAIMED COSTS FOR OSS MODIFICATIONS .....</b>	<b>9</b>
A. Ameritech's claimed costs for OSS modifications .....	10
1. Maintenance-related OSS .....	11
2. Provisioning-related OSS .....	13
3. Billing-related OSS .....	14
4. Other OSS .....	15
B. Pacific Bell's Claimed OSS Costs .....	16
C. SWBT's Claimed OSS Costs .....	17
D. GTE's Claimed OSS Costs .....	17
1. Maintenance-related OSS .....	18
2. Provisioning-related OSS .....	21
3. Billing-related and Service Order-related OSS .....	23
4. Other OSS .....	24
<b>IV. SWITCHING AND SIGNALLING COSTS .....</b>	<b>24</b>
A. Use of the SCIS and CCSCIS cost models inappropriately Includes costs that are not allowable under the Commission's local number portability costs standards .....	25

B.	Pacific Bell, SWBT, and Ameritech have not met burden of Proof established in the Designation Order regarding the lawfulness of using costs models to predict signaling and switching costs.....	28
1.	The SBC Companies' justification of the use of SCIS and CCSCIS falls far short of the mark .....	29
2.	The Actual Cost Estimates filed by the SBC companies are illogical, undocumented, and unverifiable .....	30
3.	Ameritech's blatant disregard for the Commission's rules and inquiries should not be allowed.....	32
V.	OVERHEAD .....	33
VI.	THE QUERY SERVICE COSTS AND CHARGES.....	35
VII.	SEPARATIONS .....	38
	<b>CONCLUSION .....</b>	<b>41</b>

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**AD HOC TELECOMMUNICATIONS USERS COMMITTEE'S  
OPPOSITION TO DIRECT CASES**

The Ad Hoc Telecommunications Users Committee ("Ad Hoc") respectfully submits these Oppositions to the carriers' direct cases in the above-captioned tariff investigation.

**INTRODUCTION**

**I. THE STATUTORY FRAMEWORK**

The Common Carrier Bureau has established clear and detailed criteria for determining which local number portability costs are eligible for recovery through the new, federal local number portability charges and which are not. The tariffs under investigation in this docket are not consistent with these criteria.

A. The Commission and Bureau Orders have Established Clear Limits on the Costs that May be Recovered in Local Number Portability Charges.

The Common Carrier Bureau has made it clear that the federal local number portability charges cannot be used by incumbent local exchange carriers ("ILECs") to recover every cost associated with implementing local number portability. The new charges are only "an *extraordinary mechanism* to recover *certain eligible costs* of providing local number portability, *in addition to* the existing price caps and rate-of-return recovery mechanisms."<sup>1</sup> The protestations of the carriers notwithstanding<sup>2</sup>, there can be no doubt that only direct incremental costs of implementing local number portability are appropriately recovered via the local number portability charges.

1. Costs Must Meet Two Criteria to be Eligible for Recovery via the Local Number Portability Charges.

The Common Carrier Bureau developed a two-part test to implement the Commission's LNP rulemaking and identify the costs that can be appropriately recovered via local number portability charges ("eligible local number portability costs"). Eligible local number portability costs "(1) would not have been incurred by the carrier 'but for' the implementation of number portability; *and* (2) were

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<sup>1</sup> *Telephone Number Portability Cost Classification Proceedings*, Memorandum Opinion and Order, CC Docket No. 95-116, DA 98-2534 (Dec. 14, 1998) ¶ 6 (emphasis added) ("*Cost Classification Order*").

<sup>2</sup> *See, e.g.*, Direct Case of Pacific Bell at 6 ("the Bureau should not rely upon incomplete or short-run approaches to measuring costs to determine the cost of implementing local number portability. Such expense tracking processes fail to capture a significant portion of the long-run economic costs incurred in implementation."); Direct Case of Southwestern Bell Telephone Co. at 6 (identical comment to that of Pacific Bell); Direct Case of Ameritech at 3 ("The use of conflicting long-run and short-run methodologies would mean that substantial local number portability costs will not be recoverable by Ameritech . . .").



incurred 'for the provision of ' number portability service."<sup>3</sup> But, under the standards established by the Commission in the LNP Rulemaking,<sup>4</sup> even that is not always the end of the inquiry.<sup>5</sup> Moreover, the *Cost Classification Order* narrowly construed the phrase "for the provision of portability" and rejected the interpretation advocated by some LECs that the phrase meant "all costs related to any changes made necessary as a consequence of local number portability."<sup>6</sup> It is the carrier's burden to show that costs meet the criteria for eligible local number portability costs and to provide the detailed information to enable the Commission and interested parties to determine that only eligible local number portability costs were included in the federal local number portability charges.<sup>7</sup>

Finally, the *Cost Classification Order* emphasizes the narrow nature of eligible local number portability costs by describing a litany of costs that do *not* constitute eligible local number portability costs. These include costs incurred to adapt other systems to local number portability, such as repair and maintenance, billing, or order processing systems, or the costs of ensuring that local number portability does not degrade service quality or network reliability.<sup>8</sup> Costs that

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<sup>3</sup> *Cost Classification Order* at ¶ 10.

<sup>4</sup> *Telephone Number Portability*, Third Report and Order, CC Dkt. 95-116, (rel. May 12, 1998) ("*Third Report and Order*").

<sup>5</sup> See, e.g., *id.* ¶ 29 ("where an upgrade that meets our two-part test discussed above is not dedicated solely to number portability and is not available without the portability functionalities, we require LECs to make a special showing to establish the eligible local number portability costs associated with the upgrade.").

<sup>6</sup> *Id.* at ¶ 12.

<sup>7</sup> *Id.* at ¶¶ 10, 19 29.

<sup>8</sup> *Id.* at ¶¶ 12-13.

extend beyond the five-year recovery period also are ineligible because costs incurred after that period will be recovered via other mechanisms.<sup>9</sup> Similarly ineligible are the costs of interim number portability and embedded investments.<sup>10</sup> The *Cost Classification Order* also emphasized that the only appropriate test for determining which charges constitute eligible local number portability costs was the two-pronged test set out in paragraph 10 of the *Cost Classification Order*.<sup>11</sup>

The Commission's guidance to date regarding eligible costs has been clear and explicit. Despite this specification of eligible costs, the ILECs have used the instant tariff filings as an opportunity to ignore the Commission's directions and unreasonable expand costs that may properly be recovered in LNP charges. For the reasons discussed in greater detail below, the Commission should reject the carriers' over-reaching and scrupulously police the boundaries established by the Commission's earlier orders.

## II. THE ILEC'S INCLUDE COSTS THAT ARE NOT ELIGIBLE FOR RECOVERY VIA THE LOCAL NUMBER PORTABILITY TARIFF

In the *Cost Classification Order*, which established the principles under which certain limited costs could be recovered via the local number portability tariffs, the Common Carrier Bureau ("Bureau" or "CCB") agreed with AT&T's position finding it "reasonable to bar recovery of costs incurred by LECs prior to

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<sup>9</sup> *Id.* at ¶ 15.

<sup>10</sup> *Id.* at ¶¶ 16, 18.

<sup>11</sup> *Id.* at ¶ 18.

local number portability implementation" and concurred "that permitting embedded investments to be eligible local number portability costs would amount to double recovery of costs already subject to recovery through standards mechanisms."<sup>12</sup> The Bureau, therefore, expressly prohibits the recovery of certain costs associated with local number portability – including the economic cost and certain OSS modifications, for example – in favor of those costs that are “incremental” to the LECs ongoing operations.

As a threshold matter, the ILEC’s subject to this investigation exhibit a fundamental misunderstanding of how the term “incremental” was used by the Bureau in determining local number portability costs, which in turn has created confusion about which costs are eligible for recovery via the local number portability tariffs. As an example, Pacific Bell points out that, “[t]echnically, the term ‘incremental cost’ refers to marginal and average unit costs.”<sup>13</sup> When estimating the economic cost of a service or network element, as the ILECs have been asked to do in TELRIC or TSLRIC interconnection cost studies, Pacific’s definition is exactly what the term “incremental” means. However, when the Bureau stated in this proceeding that the only costs eligible for recovery “through the federal local number portability charges [are] those costs that are demonstrably *incremental* costs LECs incur in the provision of long-term number portability,”<sup>14</sup> it was using the term “incremental” to mean those costs, and only

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<sup>12</sup> *Cost Classification Order* at ¶ 18.

<sup>13</sup> Direct Case of Pacific Bell at 6.

<sup>14</sup> *Cost Classification Order* at ¶ 21 (emphasis added).

those costs, that LECs would not have incurred *in addition* to their normal operations. It is on this basis that the Bureau established its two-pronged test to assist ILECs in assessing which costs are eligible for recovery.<sup>15</sup>

Because the Bureau narrowly defined the costs that are eligible for recovery, not all local number portability-related costs incurred by the ILECs can be recovered via the local number portability charge. This is not to say that these costs are unrecoverable, rather, these costs must be recovered elsewhere:

The ordinary cost recovery mechanisms already generally provide LECs with the opportunity to recover costs incurred in modernizing their networks to keep pace with technological and market developments and to maintain high standards of service quality. LECs must, therefore, distinguish network upgrade costs and the carrier-specific costs directly related to providing long-term number portability. Only the latter are “eligible local number portability costs” for the purposes of these federal local number portability charges.<sup>16</sup>

The Commission recognized that only a portion of the joint costs of software generics, switch hardware, and OSS, SS7, or AIN upgrades are carrier-specific costs directly related to number portability.<sup>17</sup> The Commission concluded that these modifications and upgrades also provide a wide range of services and features unrelated to the provision of number portability and are recoverable by LECs in their rates for other services.<sup>18</sup>

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<sup>15</sup> As discussed above, to be eligible for recovery, carriers are required to show that costs (1) would not have been incurred “but for” the implementation of number portability service; and (2) were incurred “for the provision of” number portability service. *Cost Classification Order* at ¶ 10 (emphasis in original).

<sup>16</sup> *Cost Classification Order* at ¶ 6.

<sup>17</sup> *Telephone Number Portability*, Third Report and Order, 13 FCC Rcd ¶¶ 73-74 (“*Third Report and Order*”).

<sup>18</sup> *Id.*

However, even a cursory examination of the ILEC tariffs reveals their over-inclusive nature. Ad Hoc's comments specifically go to the inclusion of OSS cost that do not meet the "two-pronged test" mentioned above and that are included by all four companies as well as the use of cost models that incorporate the *embedded* costs rather than the *incremental* cost of providing local number portability used by Ameritech, Pacific Bell, and SWBT. The egregious overstatement of costs revealed by our close review of even these limited areas is indicative of systemic problems with the development of the costs submitted by these carriers.

In these comments, Ad Hoc will discuss these issues in turn, and, where possible, suggest modifications that should be made to the ILEC tariffs to make them compliant with the Bureau's *Cost Classification Order*.

### III. CLAIMED COSTS FOR OSS MODIFICATIONS

The first issue that the *Designation Order* targets for investigation is whether the ILECs' (hereafter, this refers to Ameritech, GSTC, GTOC, Pacific, and SWBT, unless otherwise indicated) local number portability tariffs include costs incurred to adopt other OSS systems to number portability, beyond the OSS costs that are directly related to the provision of number portability.<sup>19</sup> In order to facilitate its investigation, the Common Carrier Bureau directed the ILECs to supply further detail concerning their claimed OSS costs, including an

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<sup>19</sup> *Long-Term Telephone Number Portability Tariff Filings of Ameritech Operating Companies, et al*, Order Designating Issues for Investigation, CC Dkt. 99-35, (rel. Feb. 26, 1999), ¶ 9 ("*Designation Order*").

itemized listing of such costs organized by functional area.<sup>20</sup> The Bureau has established a precise and unambiguous standard concerning which OSS-related costs qualify for recovery via the local number portability tariffs, and in so doing also identified a number of specific OSS-related costs which it has determined do not qualify for such recovery.<sup>21</sup> The Bureau specifically rejected the proposition that eligible local number portability costs include all costs that carriers incur as an “incidental consequence of number portability.” Such incidental costs, outside of the costs of the narrowly defined portability functions eligible for recovery, include “costs incurred to adapt other systems to implement local number portability, such as repair and maintenance, billing, or order processing systems.”<sup>22</sup>

To varying degrees, each of the ILECs is seeking to recover OSS costs which the Commission has determined are not eligible for recovery through the local number portability tariffs.

A. Ameritech’s claimed costs for OSS modifications.

Of the four ILECs, Ameritech’s extremely broad interpretation of allowable OSS costs is exceeded only by GTE (see Section III.D., *infra*). Ameritech seeks recovery of costs associated with twenty OSS systems, but comparison of these systems to the Commission’s costing standard demonstrates that nine of them are ineligible costs of systems ancillary to the provision of number portability

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<sup>20</sup> *Designation Order* at ¶ 10.

<sup>21</sup> *Cost Classification Order* at ¶ 12

<sup>22</sup> *Cost Classification Order* at ¶ 12.

services. These systems are identified below, organized by the type of function that they primarily provide (maintenance, provisioning of services other than local number portability services, billing, and 911 emergency services).

Based on the evidence presented below, Ameritech's claimed OSS costs are unreasonable and must be adjusted. When each of the OSS modifications enumerated below are removed from Ameritech's cost study, its claimed OSS costs are reduced from \$            to \$            , a reduction of %. Details of this calculation are shown on Attachment 1 to these Comments.

1) Maintenance-related OSS.

**Predictor.** Ameritech classifies the Predictor OSS as a maintenance system,<sup>23</sup> and describes it variously as a “mechanized means of identifying cable pair associated with each Telephone Number (TN)”<sup>24</sup> and as a “system which tests switch software for correct service feature translations for a ported number.” Neither function is undertaken “for the provision of” number portability, *i.e.*, querying services or the porting of telephone numbers from Ameritech to another carrier or vice versa. Moreover, Ameritech admits that the modifications to this system are for “new software required to accept local number portability information.” In other words, these are modifications needed to adapt the system to the local number portability environment. These modifications do not satisfy the Commission's eligible cost standard of “costs carriers incur specifically in the provision of number portability services” and therefore Ameritech's proposed

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<sup>23</sup> Direct Case of Ameritech, Appendix C, at 4.

<sup>24</sup> *Id.*

local number portability costs must be adjusted to remove the Predictor system costs.

**EMAC.** The Enhanced Mechanized Assignment and Control (EMAC) system is a database that Ameritech has used to inventory, assign, and otherwise administer inside and outside plant facilities in Wisconsin.<sup>25</sup> EMAC costs should be removed from the proposed local number portability costs and rates.

**LMOS.** Ameritech correctly classifies the Loop Maintenance Operations System (LMOS) as a maintenance system;<sup>26</sup> it is a database of customer line record information by telephone number (including such items as cable pair, class of service, and features associated with the line). Ameritech states that “[t]he local number portability-driven upgrades allow for the ability of these systems to recognize and track ported numbers for Repair Bureau reports.”<sup>27</sup> Accordingly, these upgrades are intended to adapt LMOS to operate properly in the local number portability environment, and do not qualify as costs directly incurred for the provision of number portability. The LMOS upgrade costs should be removed from Ameritech’s proposed local number portability costs and rates.

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<sup>25</sup> Direct Case of Ameritech, Appendix C, at 5.

<sup>26</sup> Direct Case of Ameritech, Appendix C, at 5.

<sup>27</sup> Direct Case of Ameritech, Appendix C, at 10.



**MLT.** The Mechanized Loop Testing (MLT) system is a maintenance system<sup>28</sup> which “performs automated loop testing of POTS lines.”<sup>29</sup> It is not used directly for the provision of number portability services, and the modifications are necessary to adapt the MLT to accept portable TNs. (*Id.*). MLT upgrade costs are thus not eligible for recovery and must be removed from Ameritech’s proposed local number portability costs and rates.

**NSDB.** According to Ameritech, the Network and Services Database (NSDB) “contains information on circuit numbers, locations, etc., to be accessed by maintenance and alarm systems,”<sup>30</sup> and supplies data to the WFA/C system for provisioning and repair activity. Ameritech’s description of the required NSDB modifications indicates that they are necessary to adapt the system to operate in the local number portability environment, and are not directly required for the provision of local number portability services.<sup>31</sup>

2) Provisioning-related OSS.

**WFA systems.** The Work Force Administration (WFA) system administers and controls installation and maintenance work, including that work associated with POTS and special services. Its specific functions include tracking repair progress, issuing trouble tickets for inside central office technicians, and time

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<sup>28</sup> *Id.*, Appendix C, at 4.

<sup>29</sup> *Id.*, Appendix C, at 10.

<sup>30</sup> Direct Case of Ameritech Appendix C, at 11.

<sup>31</sup> Direct Case of Ameritech Appendix C at 6, 11-12.

reporting.<sup>32</sup> This system does not appear to be directly used for the provision of local number portability services, and Ameritech's description of its required modifications<sup>33</sup> confirms that they constitute adaptation of the system to the local number portability environment, *i.e.* they are not eligible costs under the FCC's costing standard.

**CARE.** Ameritech describes the Carrier Access Record Exchange (CARE) system as an "Interexchange Carrier provisioning tool," which identifies the Primary Interexchange Carrier (PIC) number associated with a given TN.<sup>34</sup> The system modifications were necessary to enable it to function in an local number portability environment, but the system is not used directly for the provision of local number portability services.<sup>35</sup> Accordingly, these costs must also be excluded from Ameritech's proposed costs and rates for local number portability.

### 3) Billing-related OSS.

**DBAS II.** The Database Administrative System II (DBAS II) is a billing-related OSS which administers data concerning alternate billing arrangements, such as calling card PINs and third party billing validation, and communicates that data to the LIDB (*see below*).<sup>36</sup> The system modifications were necessary to enable it to

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<sup>32</sup> Direct Case of Ameritech, Appendix C at 7 and 13.

<sup>33</sup> Direct Case of Ameritech, Appendix C, at 7, 13..

<sup>34</sup> *Id.*, Appendix C, at 4 and 9.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*, Appendix C, at 4 and 9.

function in an local number portability environment, but the system is not used directly for the provision of local number portability services.<sup>37</sup> Consequently, no DBAS II upgrade costs are eligible local number portability costs, and they must be removed from Ameritech's proposed local number portability costs and rates.

**LIDB.** The Line Information Database (LIDB) is a regional billing-related database which stores the data needed to validate calls made under alternative billing arrangements (*e.g.*, calling card or collect calls).<sup>38</sup> As is the case with DBAS II, the LIDB system modifications were necessary to enable it to function in an local number portability environment, but the system is not used directly for the provision of local number portability services.<sup>39</sup> Consequently, no LIDB upgrade costs are eligible local number portability costs, and they must be removed from Ameritech's proposed local number portability costs and rates.

4) Other OSS.

**Emergency 911 database.** Ameritech proposes to recover from local number portability services the costs of modifying its 911 emergency services database "to recognize local number portability orders."<sup>40</sup> This system is clearly not used for the provision of local number portability services, and the costs of adapting the system to work properly in the local number portability environment

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.*, Appendix C, at 5 and 10.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*, Appendix C, at 8.

do not qualify for recovery via the local number portability tariffs. These costs also must be removed from Ameritech's proposed costs and rates for local number portability.

**B. Pacific Bell's Claimed OSS Costs.**

Pacific has improperly included the costs of two ineligible OSS systems, namely the      and      systems.      -related costs fail to be eligible for the reasons detailed above in the discussion of Ameritech's cost support. Pacific's own description of      , as an "----- ----- ----- ----- ----- ----- ----- ----- -----" confirms the conclusion that -----"41 and thus not allowed under the Commission's local number portability costing standard.

Similarly, the ----- costs must be excluded under the Commission's standard for allowable local number portability costs. ----- is Pacific's "----- ----- -----", which "automates the record keeping functions associated with the repair operations and provides data required for automatic testing of defective circuits." As a ----- system, ----- also is not allowed under the Commission's local number portability costing standard.

Effecting these adjustments reduces Pacific's claimed OSS investment costs from \$----- to \$----- (a 27% reduction), and its claimed OSS expenses from \$-----to ----- (a 32% reduction). These adjustments are detailed in Attachment 2 to these Comments.

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<sup>41</sup> Pacific Direct Case, Attachment B, page 7.

### C. SWBT's Claimed OSS Costs.

SWBT has also included costs associated with --- and ---- in its proposed local number portability tariffs.<sup>42</sup> SWBT attempts to justify inclusion of those costs using language identical to that in Pacific's Direct Case, including the descriptions of --- and ---- that are cited in the paragraph above. For the reasons enumerated above, these costs also fail to qualify for recovery in the local number portability tariffs, and therefore must be removed from SWBT's proposed costs.

Effecting these adjustments reduces Pacific's claimed OSS investment costs from \$----- to \$----- (a 14% reduction), and its claimed OSS expenses from \$----- to \$----- (a 31% reduction). These adjustments are detailed in Attachment 3 to these Comments.

### D. GTE's Claimed OSS Costs.

GTE has claimed that the costs associated with modifications to numerous OSS qualify for recovery via its proposed local number portability tariffs, but closer examination reveals that many of these systems have only tangential connections to the provision of local number portability services, or in other respects fail to constitute eligible OSS costs as defined by the Commission. As explained in detail below, GTE's proposed OSS investments and expenses are unreasonably high and should be reduced by 42% and 50%, respectively (see Attachment 4 to these Comments).

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<sup>42</sup> Direct Case of SWBT, Attachment B, at pages 6-7, and Attachment H. *See also* Direct Case of SWBT, confidential Chart 1, line 11.

Based on the evidence presented below, GTE's claimed OSS costs are unreasonable and must be adjusted. When each of the OSS modifications enumerated below are removed from GTE's cost study, its claimed OSS investment costs are reduced from \$----million to \$----million, a reduction of 42%. In addition, the removal of unreasonable OSS expenses reduces those costs from \$-----million to \$-----million, a reduction of 50%. Details of these calculations are shown on Attachment 4 to these Comments.

1) Maintenance-related OSS

**4TEL.** This system is used to perform tests on subscriber loops,<sup>43</sup> which is not a function undertaken "for the provision of" number portability services. Moreover, GTE states that its modifications to 4TEL "[p]rovides the ability to perform loop tests on non-native telephone numbers,"<sup>44</sup> which means that the modifications were required to adapt 4TEL to operate properly in the local number portability environment, rather than to provide local number portability services. These costs are not eligible for recovery in the local number portability services tariffs under the Commission's costing guidelines.

**AWAS.** The Automated Work Administration System (AWAS) administers and assigns work to GTE's network technicians (both Customer Zone Technicians and Central Office Technicians),<sup>45</sup> and thus is a basic repair and

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<sup>43</sup> Direct Case of GTE, Attachment 1, Workpaper A Supp 5".

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

provisioning system of the Company. The specific modifications made to this system, which GTE describes as “[i]dentifies correct routing destination for work assigned on ported telephone numbers,”<sup>46</sup> are limited to adaptation of the system to operate in the local number portability environment. The costs of these modifications thus are not eligible under the Commission’s costing guidelines.

**Customer Care.** GTE describes its Customer Care system as providing “single desktop access to many support systems for the repair center advocate,” and indicates that it includes the ability to initiate local loop tests.<sup>47</sup> The detail that GTE provides concerning the modifications to this system indicate that they are necessary to permit it to interoperate with local number portability-specific functions (such as the LSMS and NPAC systems), but not to modify the system to supply local number portability services.<sup>48</sup> As non-eligible costs, they must be removed from GTE’s proposed local number portability costs and rates.

**CTI/IVRU.** The Computer Telephony Integration (CTI) system, interfaced to an Interactive Voice Response Unit (IVRU), automates some aspects of customer interaction with GTE’s call center.<sup>49</sup> These end user customer service functions, and the modifications made to the underlying systems, are not directly recruited

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<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*, at Workpaper A Supp 6".

in the provision of local number portability services, thus do not qualify for recovery in GTE's local number portability tariffs.

**DSTS.** The Digital Services Test System (DSTS) is used to test digital services such as ISDN and ADSL, and thus has no direct use in the provision of local number portability services.<sup>50</sup> The system needed to be modified to obtain the LRN from the LSMS system,<sup>51</sup> but this change is needed only in order to “ensure proper maintenance of digital services when telephone numbers are ported,”<sup>52</sup> *i.e.* to allow the system to operate in the local number portability environment, rather than to provide local number portability services. As non-eligible costs, they must be removed from GTE's proposed local number portability costs and rates.

**TONICS.** GTE's Telephone Operations Network Interface Control System (TONICS) is described as providing “fault, performance, configuration, and security management across all network domains.”<sup>53</sup> GTE includes the costs of modifying numerous aspects of this system, including the Alarm Correlation Engine (ACE), Customer Access Facilities (TCAF), and Traffic Irregularity System (TIAS). GTE's description of these systems and modifications makes it clear that they were needed in order to make the alarm, testing, and monitoring

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<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> Direct Case of GTE, at 20.

<sup>53</sup> *Id.*, Workpaper A Supp 7".



functions of TONICS operate properly in the local number portability environment, rather than to provide local number portability services.<sup>54</sup>

**TAS.** The Trouble Administration System (TAS) performs the automated creation and flow of Trouble Reports,<sup>55</sup> and modifications to this system “are necessary to ensure that trouble reports can be created for both CLECs and end users who have ported numbers.”<sup>56</sup> Once again, GTE’s description fails to indicate that the system and modifications made to it are directly necessary for the provision of local number portability services, and thus these costs must be excluded.

2) Provisioning-related OSS.

**SITES.** This is a central database of statistics for GTE’s common language identity code (CLLI) sites (generally, switches). GTE states that the system changes “are necessary to ensure that ported number and serving switch information is correctly contained in a central repository for use by other systems,<sup>57</sup> rather than for the provision of local number portability services. These costs must also be removed as non-eligible according to the Commission’s costing guidelines.

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<sup>54</sup> *Id.*, pg. 23-24.

<sup>55</sup> *Id.*, Workpaper A Supp 8".

<sup>56</sup> *Id.*, at 24.

<sup>57</sup> *Id.*, at 21-22.

**SAM and NEDAS.** The Switch Access Manager (SAM) system is used to set and verify switch feature via the recent change memory function.<sup>58</sup> GTE states that “[t]he change enables recent change activity to be performed for a ported TN,” *i.e.*, it allows this system to operate in the local number portability environment, instead of being used directly to provide local number portability services. The Network Element Data Administration System (NEDAS) is described by GTE as the trunk-side database administration toll for recent change activities,<sup>59</sup> and thus the costs of modifying that system are similarly ineligible.

**StarMem.** This system assists GTE’s Care technicians to provide customer-requested changes to switch-based products (*i.e.*, features) and PICs, by interacting with the SAM system.<sup>60</sup> The described modifications were required in order to allow the system to operate properly in the local number portability environment, and it is not used directly to provide local number portability services.

**ASAVP and BEX.** The Advanced Service Assurance Verification Platform/Service Assurance Voice System (ASAVP) “verifies that completed service orders have been provisioned correctly.” The Business Express (BEX)

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<sup>58</sup> *Id.*, at 22.

<sup>59</sup> *Id.*, Workpaper A Supp 3".

<sup>60</sup> *Id.*, at 22 and Workpaper A Supp 7".

and associated Desktop Documentation and Reference (DDR) is used by GTE's Business Sales Center personnel. The modifications to these systems were made to adapt them to the local number portability environment, and the costs of those modifications thus fail to qualify for recovery via the local number portability tariffs under the Commission's definition of allowable costs.

3) Billing-related and Service Order-related OSS.

GTE includes the costs of modifying no less than eight billing-related systems in its proposed local number portability costs and rates. Similar to the other OSS costs discussed above in these Comments, our review of GTE's descriptions of these systems' functions, and explanations of the modifications made revealed no evidence to support GTE's claims that these costs qualify under the Commission's definition of costs incurred "for the provision of" local number portability services. Similarly, GTE includes the costs of modifying ordering systems, namely the National Order Collection Vehicle (NOCV), Service Order Loading and Retrieval (SOLAR), the Service Order Record Computer Entry System (SORCES) and its Subscription Services subsystem dealing with PIC changes. While these systems appear to be involved in completing orders for local number portability services, they are also used to provide other, non-local number portability services, and GTE has not provided sufficient detail to distinguish the modifications directly necessary to handle local number portability service orders, versus those modifications needed to adapt other types of order processing to the local number portability environment. Consequently, GTE has failed to demonstrate that these ordering-related costs are eligible for recovery

under the Commission's costing guidelines. The specific costs that must be excluded from GTE's proposed local number portability tariffs are detailed in Attachment 4 to these Comments.

4) Other OSS.

**Enhanced 911 database.** GTE proposes to recover from local number portability services the costs of modifying its Enhanced 911 emergency services database "to ensure that the end user's information is not deleted from the 911 database during the porting process."<sup>61</sup> This system is clearly not used for the provision of local number portability services, and the costs of adapting the system to work properly in the local number portability environment do not qualify for recovery via the local number portability tariffs. These costs also must be removed from GTE's proposed costs and rates for local number portability.

#### IV. SWITCHING AND SIGNALLING COSTS

The *Designation Order* identified the calculation of signaling and switching costs as one of the issues in need of investigation in the tariffs filed by the ILECs.<sup>62</sup> More specifically, the *Designation Order* asked "whether Ameritech's use of CCSCIS to estimate its signaling costs of number portability results in the inclusion of some embedded costs and, therefore, produces an inaccurate estimate of Ameritech's actual number portability costs."<sup>63</sup> The Commission similarly designated for investigation whether the SBC's companies "use of the

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<sup>61</sup> *Id.*, at 14.

<sup>62</sup> *Designation Order* at 6.

SCIS and CCSCIS cost models to estimate switching and signaling costs results in the inclusion of some embedded costs and, therefore, produces an inaccurate estimate of their actual number portability costs.”<sup>64</sup> To more fully investigate this issue, the Commission ordered that these companies include in their direct cases a showing of their actual expenditures, as opposed to expenditures estimated by the models, for switching and signaling costs for the provision of local number portability.

- A. Use of the SCIS and CCSCIS cost models inappropriately includes costs that are not be allowable under the Commission’s local number portability cost standards.

The Bureau found that:

Ameritech, Pacific, and SWBT's use of cost models, rather than actual expenditures, raises substantial issues of lawfulness that warrant investigation. It is not clear that the use of these cost models does not result in the inclusion of some embedded costs for which recovery is already provided through other recovery mechanisms. Moreover, it is not clear that such models accurately estimate the actual additional costs incurred for the provision of local number portability. The use of these models may be inconsistent with the *Cost Classification Order* requirement that only incremental costs may be recovered through these federally authorized charges.<sup>65</sup>

The Bureau's concerns about the inclusion of embedded costs resulting from the use of SCIS and CCSCIS are well-founded. As discussed below, these models, while they purport to be forward looking, calculate an *average unit cost* over the

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<sup>63</sup> *Designation Order* at ¶ 18.

<sup>64</sup> *Id.*

<sup>65</sup> *Designation Order* at ¶ 17.

long term, not an *incremental cost per unit* during the specified cost-recovery period.

Both Pacific Bell and SWBT argue that SCIS and CCSCIS do “not analyze embedded or historical costs...Rather, that CCSCIS and SCIS develop forward looking costs based on the fact that increasing capacity utilization today triggers an advancement in network expenses.”<sup>66</sup> This argument goes right to the heart of the misunderstanding of the term “incremental.”<sup>67</sup> As demonstrated by analysis of the statements below, Pacific Bell and SWBT’s logic is flawed and is based upon an understanding that fails to distinguish between the types of *normal* expenditures related to modernizing and upgrading their networks to keep pace with technical and market developments in the nature of the *Cost Classification Order* Paragraph 6, and specific network upgrades required only for the provision of local number portability.

Pacific Bell describes its rationale for including capacity costs as follows:

A significant portion of local number portability implementation cannot be tracked immediately, including the cost of using SS7 network capacity to process local number portability queries. For example, local number portability queries will use a significant portion of capacity of STPs. None of these STP costs, however, have been tracked since no construction jobs have been triggered yet. Nonetheless, such costs are incurred as local number portability traffic increases capacity utilization.<sup>68</sup>

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<sup>66</sup> Direct Case of Pacific Bell at *i*. Direct Case of SWBT at *i*.

<sup>67</sup> In fact, it is entirely possible that, as facilities based competition advances, the utilization of ILECs’ SS7 networks will decrease, thereby freeing up capacity, which would result in the need for less capacity.

<sup>68</sup> Direct Case of Pacific Bell at 5. SBC makes essentially the same argument. See Direct Case of SWBT at 5.

A requirement for *additional* STP capacity to process increasing volumes of local number portability queries as the market transitions from monopoly to competitive conditions clearly falls within the *Cost Classification Order* paragraph 6 description of modernization costs incurred to keep pace with “market developments”. Given that local number portability capability is already available, and “no construction jobs have been triggered yet,”<sup>69</sup> the STP “capacity” additions are clearly related to changing market conditions (*e.g.*, competitive opportunities becoming available on a wide-scale basis and telephone consumers actually having an alternative supplier to “port” their number to), not to the provision of local number portability.

By their own admission, the capacity costing models employed by the SBC Companies and Ameritech develop the economic costs of local number portability,<sup>70</sup> which does not take into account when a cost happens to be incurred. In the case of capacity additions, from an economic costing perspective, the threshold issue is how much capacity is required per unit of output in the long run. However, the “incremental” costing basis favored in the *Cost Classification Order* allows for the possibility that capacity will be drawn from existing reserves which, in all likelihood, were installed either prior to or for purposes other than local number portability implementation. In either case, the cost of this “additional” capacity is not eligible for recovery via the local number portability surcharge.

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<sup>69</sup> *Id.*

<sup>70</sup> Direct Case of Pacific Bell at 4. Direct Case of SWBT at 5. Direct Case of Ameritech at 8.

The CCB is seeking to limit recovery (within local number portability charges) to only those costs incremental to what the carriers already would have been incurring without local number portability, rather than allowing for recovery of all economic costs of local number portability within these charges. The *Cost Classification Order* clearly places the burden of proof on the ILECs when it comes to explaining why the costs produced by their proprietary model is superior to the actual booked costs associated with local number portability implementation. Ameritech, Pacific and SWBT have not met this burden.

- B. Pacific Bell, SWBT, and Ameritech have not met the burden of proof established in the *Designation Order* regarding the lawfulness of using cost models to predict signaling and switching costs.

Both of the SBC Companies and Ameritech have failed to meet the burden of proof regarding the lawfulness of the use of CCSCIS and SCIS to develop local number portability costs. Beyond failing to justify the use of the models (as discussed above), the *Designation Order's* requirement for provision of "actual" costs as part of each carrier's direct case was flagrantly disregarded by Ameritech, and barely complied with by Pacific and SWBT. As discussed below, what is provided by the SBC companies is one page that simply lists their actual expenditures for switching and signaling. Pacific, SWBT and Ameritech should not be allowed to flaunt the Commission's cost standards by simply by repeating the same justifications for using SCIS and CCSCIS that were found wanting in their initial filings.



Given the evidence the Commission has available to it today, it should disallow *all* switching and signaling costs submitted by the SBC Companies and Ameritech for inclusion in the local number portability rate elements. Alternatively, it must require them to come back yet again with verifiable actual cost estimates that include explanations of all of the variables including information on demand assumptions such as percentage of calls dipped, percentage of numbers assumed ported to competitors, etc.

- 1) The SBC Companies' justification of the use of SCIS and CCSCIS falls far short of the mark.

Pacific Bell provides three reasons that the actual costs “cannot be appropriately compared to the CCSCIS outputs.”<sup>71</sup> First, Pacific Bell argues that the “actual expenditures do not reflect the advancement costs ... due to increased demand on the network caused by local number portability.”<sup>72</sup> Second, Pacific argues that “actual expenditures do no reflect the advancement costs associated with secondary expenses.”<sup>73</sup> Third, Pacific argues that actual investment totals “do no reflect the local number portability portion of the shared ‘waiting to serve’ capacity in the SS7 network.”<sup>74</sup>

SWBT offers the same three rationales and adds that it did not include “actual expenditure costs for equipment used for billing and improved network

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<sup>71</sup> Direct Case of Pacific Bell at 3.

<sup>72</sup> *Id.* at 4.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

securing,”<sup>75</sup> even though these costs clearly do not meet the two-pronged test for recovery eligibility and should never have been included in any event. In other words, Pacific Bell and SWBT argue that actual expenditures understate the true signaling and switching cost (*i.e.*, economic cost) of implementing local number portability. While this may be an interesting academic argument, it should have been raised with the Commission in response to the standards set forth in *Third Report and Order* and the *Cost Classification Order*, not as a defense of tariffs and costs that were not developed in compliance with those standards.<sup>76</sup>

- 2) The Actual Cost Estimates filed by the SBC Companies are illogical, undocumented, and unverifiable.

Based on these arguments, one would expect that the actual costs provided by SWBT and Pacific would be less than the modeled costs, but this is not the case. As required by the CCB Pacific and SWBT included in their direct cases a showing of their actual expenses for signaling and switching costs to implement local number portability.<sup>77</sup> Pacific Bell’s claimed actual expense is \$---million, of which \$-----million is for ---- and \$----million is for Links.<sup>78</sup> Pacific Bell’s modeled expense for these same functionalities is \$-----million.<sup>79</sup> Similarly, SWBT’s claimed actual expenses are slightly over \$---million, of which \$-----

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<sup>75</sup> Direct Case of SWBT at 4.

<sup>76</sup> The SBC Companies inclusion of “advancement costs”, “secondary expenses,” and “waiting to serve capacity” is in direct conflict with the Commission’s firm admonishment that costs be limited to those specifically incurred to provision local number portability.

<sup>77</sup> *Designation Order* at ¶ 19.

<sup>78</sup> Direct Case of Pacific Bell, Attachment C, Response to ¶ 19.

<sup>79</sup> Direct Case of Pacific Bell, Attachment H, at 1.

million is for ---- and \$----million is for -----,<sup>80</sup> and its modeled expenses are slightly less than \$---million, of which of which \$-----million is for ---- and \$----million is for links.<sup>81</sup>

Although the difference between Pacific's claimed actual and modeled expense is obviously greater than the difference between SWBT's two cost estimates, it is entire reasonable to expect from the arguments espoused by these companies that the claimed actual costs should be significantly lower than their modeled cost. The fact that the claimed actual expenditures exceed the modeled expenditures, even though according to the companies the models capture the full cost of these functionalities while the actual costs do not,<sup>82</sup> raises considerable doubt as to the validity of these companies cost studies. While this is an area ripe for closer inspection, the companies provided such a lack of detail, in spite of the Bureau's requirement of a "detailed showing," that they have made it impossible to fully examine their actual costs. What is provided by the SBC companies is one page that simply lists their actual expenditures for switching and signaling. The only detail provided is a breakdown of which costs pertain to --- and which pertain to --- as well as a breakdown of the costs incurred prior to 1999 and those incurred during the recovery period.

The Bureau noted how the need "to distinguish between eligible local number portability costs and general upgrade costs" required a more detailed

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<sup>80</sup> Direct Case of SWBT, Attachment H, at 1.

<sup>81</sup> Direct Case of SWBT, Attachment C, Response to ¶ 19.

<sup>82</sup> See *e.g.*, Direct Case of Pacific Bell at 5.

showing than was filed in the LEC tariffs.<sup>83</sup> For signaling and switching costs, the material submitted by Pacific Bell and SWBT does not meet this standard, for either the actual or the modeled costs. With regard to the modeled costs, these companies provide little to no detail regarding the utilization assumptions included in the SCIS and CCSCIS models. It is not unreasonable to expect that there could be a capacity reduction in LEC SS7 as facilities-based competition continues to increase, but it is impossible to see how and if the LECs included this type of capacity assumption in the model. Without more detail, it is impossible to validate the cost predicted by these models. With regard to actual cost, the showing of the SBC companies is barely responsive to the Bureau's directive to provide a detailed showing. The only material responsive to the Commission request for a detailed showing are two line items in Attachment H and scant detail provided in Attachment C of their respective filings.

- 3) Ameritech's blatant disregard for the Commission's rules and inquiries should not be allowed.

Ameritech argues that it uses the "accepted long-run, forward looking cost methodology to calculate its local number portability SS7 investment," even though that is not the type of cost calculation required by the Bureau in the *Cost Classification Order*. No compelling reason for the Commission to disregard its cost standard was offered (not that the Commission should have accepted one even if it were). Additionally, even though Ameritech was required to provide its

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<sup>83</sup>

*Cost Classification Order* at ¶ 19.

actual costs in addition to its modeled costs, they are nowhere to be found in its direct case.

## V. OVERHEAD

In the *Designation Order*, the Bureau concludes that “the use of these UNE [overhead] factors [by Pacific Bell and SWBT] may include general overhead costs that do not comport with the requirements of the *Cost Classification Order*.”<sup>84</sup> Pacific Bell’s overhead factor of --% is approximately ---- times the overhead factor used by Ameritech. There are several issues pertaining to Pacific Bell’s overhead factor that remain unresolved, including indications of double counting and the issue of whether this factor has, in fact, been approved by the California Public Utilities Commission (CPUC).

Pacific Bell seems to have wrought some confusion regarding its ---% “overhead” factor. Although Pacific Bell refers to this factor as “overhead,” it represents “shared and common” costs. Shared costs are those costs that cannot accurately be apportioned to particular services whereas common costs are those costs that are truly common to all services. The ---% factor offered by Pacific Bell is the amount of shared and common costs under consideration by the CPUC, of which overhead is but one portion.

Contrary to Pacific Bell’s portrayal that their overhead rate “has withstood state regulatory review and verification,” in California, the CPUC has made no determination of the percentage of shared and common overhead that should be

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<sup>84</sup> *Cost Classification Order* at ¶ 26.

applied to specific UNEs. What the CPUC has approved is the overall level of shared and common costs in Pacific Bell's California operations, but not the percentage basis of how this overall level should be allocated.

Despite their objections, the SBC companies, at the Bureau's direction, recalculated their overhead cost using an approach employed by Ameritech.<sup>85</sup> The result of this recalculation for Pacific Bell and SWBT is ---% and ---%, respectively, even though the individual numerators and denominators which were used to perform this calculation are quite different.<sup>86</sup> These numbers still exceed the overhead factor calculated by Ameritech by a factor of four. Applying an ----% overhead factor to Pacific Bell's claimed local number portability costs -- assuming all of these claims are justified -- would lower the end user surcharge from \$0.50 to \$0.45, while applying an overhead of ---% would lower the end user charge to \$0.42.

Neither Pacific Bell nor SWBT include the data used to calculate the alternative Ameritech-like overhead factor. SBC's assumption seems to be that we, and the Commission, should and will take alternative factors at face value. We have no choice but to do so, but the Commission should utilize the authority that it has to require the SBC companies to provide the requisite background data so that it is not left in this same position.

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<sup>85</sup> *Designation Order* at ¶ 28.

<sup>86</sup> See Direct Case of Pacific Bell at 10; Direct Case of SWBT at 11.

## VI. THE QUERY SERVICE COSTS AND CHARGES

Paragraph 46 of the *Designation Order* directed Pacific Bell and Southwestern Bell Telephone Company ("SWBT") to explain the necessity of querying calls to an NXX where a number has not yet been ported. As with all other issues in this tariff investigation, these costs are only eligible for recovery if Pacific Bell and SWBT can show that they meet the "but for" and the "for the provision of" local number portability service criteria set forth in paragraph 10 of the *Cost Classification Order*. Because Pacific Bell and SWBT have not, and cannot, meet their burden, the Bureau should disallow these costs from the carriers' rates.

Pacific Bell and SWBT do not even attempt to demonstrate why querying calls to an NXX where a number has not been ported are costs that "(1) would not have been incurred by the carrier 'but for' the implementation of number portability; and (2) were incurred 'for the provision of' number portability service."<sup>87</sup> Their direct cases contain no discussion of the issue. In any event, the second prong of the test poses an insurmountable obstacle to recovery of these costs in the local number portability charges. For NXXs from which no number is ported, there is, by definition, no number portability service being provided, and thus there is no way to justify recovery of these costs as being incurred "for the provision of" local number portability.<sup>88</sup> Because only costs that

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<sup>87</sup> *Cost Classification Order* at ¶ 10.

<sup>88</sup> See also 47 C.F.R. § 52.33(a)(2) ("The number portability query-service charge may recover only carrier-specific costs directly related to providing long-term number portability that the incumbent local exchange carrier incurs *to provide long-term number portability query service to other carriers* on a prearranged and default basis.") (emphasis added).

meet both prongs of the two-part test may be recovered under the local number portability charges,<sup>89</sup> Pacific Bell and SWBT have failed to meet their burdens here. Accordingly, these query charges cannot appropriately be recovered via local number portability charges.

Instead of adhering to the *Cost Classification Order's* two-part test, Pacific Bell and SWBT rely on “the simple proposition that [they] should be permitted to bill for queries conducted on behalf of other carriers, at the time that these queries occur.”<sup>90</sup> Besides ignoring the *Cost Classification Order's* two-part test, this “simple proposition” overlooks the fact that such queries to NXXs that have not yet been ported have no value or purpose.<sup>91</sup> While Pacific Bell and SWBT provide explanations for their decision to deviate from the practice of other LECs, who do not query all calls, the explanations do not satisfy the Commission's standard for what constitutes an eligible local number portability cost, nor do they constitute the “detailed explanation” of why their systems must operate in such a fashion.<sup>92</sup>

Pacific Bell and SWBT imply that they are querying calls to NXXs that have not yet been ported because the FCC has effectively forced them to do so to avoid running afoul of Commission rules regarding service degradation.<sup>93</sup> The

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<sup>89</sup> *Cost Classification Order* at ¶ 17.

<sup>90</sup> Direct Case of Pacific Bell at 16; Direct Case of SWBT at 17.

<sup>91</sup> See also Petition of AT&T Corporation to Reject or Suspend Tariffs, CC Docket 95-116 at 7-8 (January 21, 1999).

<sup>92</sup> Direct Case of Pacific Bell at 18-19; Direct Case of SWBT at 17-18.

<sup>93</sup> Direct case of Pacific Bell at 18; Direct Case of SWBT at 17-18.



Commission has, however, created no such service quality requirement that would justify the positions of Pacific Bell and SWBT.<sup>94</sup> Moreover, this concern does not change the criteria for eligible local number portability costs as set out in the *Cost Classification Order*.

The Bureau concluded in the *Designation Order* that the carriers' proffered justifications for imposing LNP charges where no number has been ported were inadequate. Accordingly, the Bureau directed the carriers to provide in their direct cases additional information, including a "detailed explanation as to why their systems are required to operate in this fashion and state why no alternatives exist."<sup>95</sup> Despite this clear directive to provide more information than the conclusory assertions in their tariff filings, the carriers have simply failed to supplement the record on this point with more detailed or persuasive explanations.

In sum, although carriers have wide latitude and discretion in the measures they deem advisable regarding local number portability, that latitude does not translate into carte blanche to recover any and all of those costs in their local number portability charges. Pacific Bell and SWBT are free to initiate pointless queries to NXXs from which no number has been ported, but the costs they incur in doing so are not eligible local number portability costs under the applicable test. Because they have failed to meet their burden on this issue,

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<sup>94</sup> See *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996) ¶ 46 ("as a general matter, we require that implementation of any long-term method not *unreasonably* degrade existing service quality or network reliability.") (emphasis added).

<sup>95</sup> *Designation Order* at para. 46.

despite the additional opportunity to do so in response to the *Designation Order*, Pacific Bell and SWBT cannot be permitted to inflate the demand estimates underlying their LNP rates with meaningless queries for NXXs from which no number has yet been ported.

## VII. SEPARATIONS

The *Designation Order* also questioned the jurisdictional separations and resulting interstate ratemaking treatment reflected in the filings under investigation.<sup>96</sup> On this issue, the LECs' direct cases, with the exception of GTE, are not responsive to the *Designation Order's* directive that they demonstrate "that the long-term number portability costs booked in past periods and included in the development of federal number portability charges have not been recovered already in the state jurisdiction" and that "long-term number portability costs included in the development of federal number portability charges will not be recovered prospectively in the state jurisdiction."<sup>97</sup> The direct cases discussed below fail to demonstrate that the FCC's concerns about potential double recovery are unfounded.

Ameritech does not even address its treatment of local number portability costs under Parts 32 and 36 of the Commission's Rules.<sup>98</sup> Instead, Ameritech makes the mistaken (if not deliberately misleading) argument that it has not

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<sup>96</sup> *Designation Order* at ¶ 51.

<sup>97</sup> *Designation Order* at ¶ 51.

<sup>98</sup> Direct Case of Ameritech at 27-28.

recovered any local number portability costs through state rates "because it has not taken any exogenous adjustments for local number portability" since 1997.<sup>99</sup>

As Ameritech must surely be aware, exogenous adjustments are not required to recover local number portability costs at the state level. If Ameritech's then-existing rates were below a state-imposed price cap, Ameritech could simply have raised its rates to recover LNP costs. Alternatively, Ameritech could have recovered local number portability costs at the state level without having to raise its rates if local number portability costs were offset by *decreases* in other costs. Ameritech claims in its direct case that it will "be taking steps" to ensure that there is no recovery of local number portability costs from the state jurisdictions in the future. Yet Ameritech has not provided sufficient information to demonstrate that there will be no double recovery.<sup>100</sup> For example, Ameritech does not address the possibility that local number portability revenues may be less than local number portability expenses, in which case the excess expenses would be separated, potentially resulting in double recovery.

Pacific Bell and SWBT state that their local number portability costs "were accounted for in accordance with Part 32 and Part 36" of the Commission's rules which would result in an allocation of local number portability costs to the state ratemaking process. Significantly, neither carrier makes any affirmative statement foreclosing the possibility that these costs were recovered in intrastate

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<sup>99</sup> Direct Case of Ameritech at 27.

<sup>100</sup> Direct Case of Ameritech at 28.

rates.<sup>101</sup> Rather than meet the burden imposed by the *Designation Order* of "demonstrat[ing]" that there was no double recovery in the past,<sup>102</sup> Pacific Bell and SWBT provide only a one-sentence statement that "the rates allowed under these alternative regulation plans would not have included local number portability costs,"<sup>103</sup> devoid of explanation or any detail. As discussed in the case of Ameritech, *supra*, the mere existence of alternative regulation at the state level is meaningless for this issue. LNP costs can be allocated and fully recovered under alternative regulation plans, either because the carriers increased their charges under the relevant plan or because local number portability costs were used to offset declines in other costs which would otherwise have prompted a rate decrease.

Pacific Bell and SWBT rely on Commission precedent to assert that "the costs of local number portability cannot be directly assigned to the interstate jurisdiction." But the rulings cited by the carriers predate the 1996 re-write of the Communications Act which explicitly conferred authority on the FCC to establish local number portability charges. As the Commission observed in the *Third Report and Order*, "section 251(e)(2) [of the Act] authorizes the Commission to provide the distribution and recovery mechanism for long-term number portability," and the Commission, under this authority, opted for "an exclusive federal recovery mechanism . . . ." <sup>104</sup>

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<sup>101</sup> Direct Case of Pacific Bell at 21; Direct Case of SWBT at 20-21.

<sup>102</sup> *Designation Order* at ¶ 51.

<sup>103</sup> Direct Case of Pacific Bell at 21; Direct Case of SWBT at 21.

<sup>104</sup> *Third Report and Order* at ¶ 29.

In short, Pacific Bell and SWBT have failed to meet the burden outlined in paragraph 51 of the *Designation Order* to demonstrate that there has not been, and will not be, double recovery of local number portability costs as a result of the carriers' choice of separations treatment.

Finally, GTE's direct case states that it tracked local number portability costs and that these costs were then reversed.<sup>105</sup> GTE does not state, however, whether these costs were used to develop state rates *before* they were reversed, which would result in double recovery of the same, albeit "reversed" costs. Thus, GTE's direct case suffers from the same fatal lack of detail and explanation cited above with respect to the other carriers' showings.

## **CONCLUSION**

WHEREFORE, for the reasons identified above, the Commission should disallow the unjustified costs included by the carriers in the tariff filings at issue in

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<sup>105</sup> Direct Case of GTE at 31.

this investigation, reduce the rates accordingly, and order such refunds as may be justified.

Respectfully submitted,

AD HOC TELECOMMUNICATIONS  
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